

**REMARKS**

By this amendment, claims 1, 9, and 18 have been amended. Claims 1-18 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 1-18 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed. The claims have been amended, and no longer recite the cited limitation. Furthermore, “a first rotation mode” finds support both in the summary of the invention and in the claims as originally filed, and is used within the specification to cover the specific example of “speed”. Applicant respectfully requests that the rejection of these claims be withdrawn. The scope of the claimed invention should be determined according to the claims, as amended, and not limited to the examples provided in the specification.

Claims 1, 8, 9, and 16-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hashimoto (US 6,172,955). This rejection is respectfully traversed.

Claims 1, 9, and 18 recite “background-formatting the recording medium in a first rotation mode suitable for the background-formatting, ... receiving a user request for writing user data ..., [and] determining that the first rotation mode is not suitable for writing the user data in response to receipt of the user request” (emphasis added). Claims 1, 9, and 18 further recite “if the first rotation mode is suitable ..., writing the user data ..., [but] if the first rotation mode is not suitable ..., rotating the recording medium in a second rotation mode and writing the user data.” (Emphasis added.)

Hashimoto discloses “if it is determined, in step S13, that a request for recording is sent ... [i]n step S14, the formatting operation is temporarily stopped so as to record a

user data packet. After the recording of the user data packet ..., the routine proceeds.” Col 8, ln. 42-49; emphasis added. Hashimoto does not disclose a step of “determining that the first rotation mode is not suitable for writing the user data,” as recited in claims 1, 9, and 18. Nor is such a limitation inherent, as Hashimoto further discloses “it takes about 40 minutes to complete a recording of data including the TOC even if the recording is performed at a double recording speed.” Col. 2, ln. 35-37; emphasis added. There is no mention of using multiple rotation speeds or modes. Since Hashimoto does not disclose all the recited limitations, claims 1, 9, and 18 are not anticipated by Hashimoto. Claim 8 depends from claim 1 and is patentable at least for the reasons mentioned above. Claims 16-17 depend from claim 9 and are patentable at least for the reasons mentioned above.

The Office Action contends that changing the speed is inherent to recording in Hashimoto. However, the subject material does not appear in the Hashimoto reference, either in the indicated location, or anywhere else. In contrast, as stated above, the only reference to any speed is “recording is performed at a double recording speed.” Col. 2, ln. 35-37; emphasis added. There is no inherent change in speed. Therefore, Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claims 1, 8, 9, and 16-18 be withdrawn.

Claims 2 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Horie (JP 2000-011380). This rejection is respectfully traversed. Claims 2 and 10 depend respectively on claims 1 and 9 and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 2 and 10 be withdrawn.

Claims 3-4 and 11-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Shirane (JP 07-262692). This rejection is

respectfully traversed. Claims 3-4 depend on claim 1 and are patentable at least for the reasons mentioned above. Claims 11-12 depend on claim 9 and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 3-4 and 11-12 be withdrawn.

Claims 5-7 and 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Seamons et al. (US 4,954,327). This rejection is respectfully traversed. Claims 5-7 depend on claim 1 and are patentable at least for the reasons mentioned above. Claims 13-15 depend on claim 9 and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 5-7 and 13-15 be withdrawn.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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